

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in sections 2002(f) and (l) of the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code §§ 47-2851.03a(c)(1)(H) and (c)(2) and 47-2851.20), and consistent with section 2(d) and (e) of the Streamlining Regulation Act of 2003, effective October 28, 2003 (D.C. Law 15-38; D.C. Official Code §§ 47-2851.02 and 47-2851.03), hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the D.C. *Register*, a new Chapter 16 (Public Halls) of Title 19 of the District of Columbia Municipal Regulations (DCMR).

This rulemaking amends Public Hall basic business license regulations to provide a forum for public hearings for the licensing of public halls.

19 DCMR Chapter 16 is amended to read as follows:

CHAPTER 16 PUBLIC HALLS

Secs.

1600	Public Hall Licenses
1601	Application for Licensure
1602	Denial, Suspension, or Revocation of License
1603	Public Notice by the Director
1604	Public Notice by the Applicant
1605	Filing an Objection
1606	Hearings
1607	Exceptions

1600. PUBLIC HALL LICENSES

1600.1 No person shall operate a public hall without obtaining from the Director of the Department of Consumer and Regulatory Affairs (“Director”) a basic business license with an Entertainment (Public Hall) endorsement unless:

- (a) The establishment has a capacity of four hundred (400) or fewer occupants; and
- (b) Has a class C or D license issued pursuant to the District of Columbia Alcoholic Beverage Control Act, D.C. Official Code §§ 25-101 *et seq.*

1600.2 For purposes of this chapter, a “public hall” means any building in which a ball, dance, exhibition, lecture, concert, or convention is conducted for profit or gain.

1600.3 Any license issued under this chapter shall be renewed every two (2) years and shall be subject to the restrictions on the presence of minors at the licensee’s premises in accordance with D.C. Official Code § 47-2820(c).

1601. APPLICATION FOR LICENSURE

- 1601.1 Each application for a public hall license shall be made on a form prescribed by the Director and filed with the Department of Consumer and Regulatory Affairs ("Department").
- 1601.2 Each application shall contain the following information:
- (a) The name and address of the applicant;
 - (b) The trade name and address of the public hall;
 - (c) If the applicant is a partnership, the names and addresses of all partners; if the applicant is a limited partnership, the names and addresses of all general partners;
 - (d) If the applicant is a corporation, the names and addresses of all officers and directors and the date of incorporation;
 - (e) If the applicant is a corporation or the applicant does not reside in the District of Columbia, the corporation or non-resident applicant shall provide the name, address, telephone number, and signature of the person who has agreed to be the applicant's registered agent for service of process;
 - (f) If different from the name and address of the applicant, the name and address of the owner of the building in which the public hall is located;
 - (g) Whether any of the applicant's officers, partners, or members have been convicted of any crimes within the last ten (10) years;
 - (h) A description of the proposed hours of operation and the kinds of events that will occur at the public hall;
 - (i) What steps the applicant has taken to provide for sufficient parking spaces, as required by District law or regulation; and
 - (j) Any other information requested by the Director.
- 1601.3 The applicant shall also file as part of its license application the following:
- (a) If the applicant is a corporation or limited partnership, documentation that the applicant is in good standing with the Superintendent of Corporations of the District of Columbia;
 - (b) Documentation that the building or portion of the building that will be used as a public hall has a valid certificate of occupancy; and
 - (c) A Clean Hands Certification, certifying that the applicant does not owe more than \$100 to the District as a result of fees, fines, penalties, or taxes.
- 1601.4 The Director may also require that any owner, member, partner, or other person holding an ownership interest in the Public Hall submit to a criminal background check.

- 1601.5 An application for the renewal of an existing license shall be filed sixty (60) days prior to the expiration date of the existing license.

1602. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

- 1602.1 The Director may deny an application or suspend or revoke a license if:
- (a) The application, or any other document required to accompany the application, contains a false statement;
 - (b) The applicant or licensee, or its officer, partner, or member, has a criminal conviction that, considering its age and severity, bears on their fitness to operate a public hall;
 - (c) The activities at the public hall or associated with the public hall have created or will create a nuisance or a threat to the public health, public safety, or the peace, order, or quiet of the surrounding community;
 - (d) The activities at the public hall or associated with the public hall have had or will have a significant adverse effect on the residential parking needs and vehicular and pedestrian safety of the surrounding neighborhood;
 - (e) The building violates District zoning, building, or fire safety statutes or regulations;
 - (f) The applicant or licensee has allowed or failed to prevent illegal activity from occurring at a public hall; or
 - (g) The applicant or licensee has failed to take reasonable steps to prevent violence or any other nuisance from occurring at a public hall or in the surrounding community.
- 1602.2 An appeal from the denial, suspension, or revocation of a license may be filed with the Office of Administrative Hearings in accordance with its rules of procedure.

1603. PUBLIC NOTICE BY THE DIRECTOR

- 1603.1 At least thirty (30) days before granting an application for a new or a renewal license, the Director shall give written notice to the affected Advisory Neighborhood Commission and shall cause the notice to be published in the District of Columbia Register.
- 1603.2 The notice shall contain the following:
- (a) The name of the applicant and the trade name of the public hall;
 - (b) The address or other designation of the location of the building for which the license is sought;
 - (c) A statement that any resident or owner of residential property, within six hundred (600) feet of the boundary lines of the lot upon which is situated

the building for which the license is sought, who objects to the granting of the application is entitled to be heard at a hearing;

- (d) A concise description of the proposed hours of operation and the kinds of events that will occur at the public hall;
- (e) The date and manner by which a person or organization must file an objection with the Director; and
- (f) The date, time, and location of the hearing to be held if objections are filed.

1604. PUBLIC NOTICE BY THE APPLICANT

- 1604.1 The applicant shall post two (2) notices supplied by the Director in conspicuous places on the building for which the license is sought and shall take photographic evidence of the posting.
- 1604.2 The notices shall be posted for at least twenty-eight (28) consecutive days, with the first consecutive day occurring at least thirty (30) calendar days prior to the noticed hearing date, and shall contain the information set forth in § 1603.2.
- 1604.3 The notices shall be securely posted on the front of the building. The bottom of the notice may not be less than three (3) feet above the abutting pedestrian level, and the top of the notice may not be more than six (6) feet above the abutting pedestrian level.
- 1604.4 The notices may be attached to the inside of a window, provided that the notices meet the positioning requirements of § 1604.3.
- 1604.5 Notices posted on the exterior of a building shall be covered with clear plastic to protect them from the weather.
- 1604.6 On or before the date of the hearing, the applicant shall file an affidavit with the Director certifying that the notice requirements of § 1604 have been satisfied.
- 1604.7 If the notices have been removed or are posted in a manner making them not easily visible from the street, the Director may extend the notice period or may require that the notice be reposted and the notice period begin anew.

1605. FILING AN OBJECTION

- 1605.1 The affected Advisory Neighborhood Commission or any resident or owner of property within six hundred (600) feet of the boundary lines of the lot on which the public hall is situated may file an objection to the issuance of a new or a renewal license. If an objection is filed, the Director shall hold a hearing to make the determinations required by D.C. Official Code § 47-2820(b-1)(2).
- 1605.2 An objection shall be in writing and must be filed with the Department's Business and Professional Licensing Administration at least five (5) calendar days prior to

the date of the hearing. The objection shall list the name and address of the person making the objection and shall describe the reasons for the objection.

1605.3 When a party retains counsel, the attorney so retained shall include his or her name, address, phone number, and D.C. Bar number on the first document filed by that party after retaining counsel. If the party retains counsel after filing a document and the party does not file additional documents, the attorney retained shall promptly file with the Department a notice of appearance containing the attorney's name, address, phone number, and D.C. Bar number.

1605.4 When a party is proceeding without representation by counsel, the party shall include his or her name, address, and phone number on any document filed with the Department.

1606. HEARINGS

1606.1 This section shall govern any hearing conducted by the Director for the issuance or renewal of licenses issued under this chapter. For purposes of this section, "Director" shall mean the Director or the Director's agent.

1606.2 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*). Evidence shall be admitted consistent with the District of Columbia Administrative Procedure Act ("Act"). If there is any conflict between this chapter and the Act, the Act shall govern.

1606.3 The hearing shall be a non-adversarial proceeding held by the Director for any license application. Any person who has filed an objection pursuant to § 1605 may attend the hearing in person or appear through a designated representative.

1606.4 Failure by the applicant to appear at the hearing either in person or through a designated representative may result in the Director's denial of the license application, unless good cause is shown for the failure to appear.

1606.5 At the hearing, the Director shall have the authority to:

- (a) Regulate the course of the hearing, including the order of testimony and the imposition of appropriate time limitations on witness testimony;
- (b) Request the applicant and objectors appearing at the hearing to state their respective positions concerning any issues in the proceeding and their support of or opposition to such issues;
- (c) Request or accept written or oral testimony and exhibits from the applicant and objectors;
- (d) Question the applicant and any testifying objectors and allow the applicant to conduct appropriate cross-examination of any testifying objectors;
- (e) Exclude irrelevant, immaterial, or unduly repetitious evidence;

- (f) Grant a request to continue the hearing for a period not to exceed thirty (30) days;
 - (g) Adjourn a hearing and establish the date when the hearing will be continued; and
 - (h) Take any other action authorized by, or necessary under, this section.
- 1606.6 Upon the scheduling of a hearing with the Director, all parties shall be prohibited from participating in any *ex parte* communication with the Director relevant to the merits of the hearing.
- 1606.7 The hearing shall be open to the public and recorded by video or audio equipment.
- 1606.8 Within thirty (30) calendar days after the close of the record, the Director shall render a written decision accompanied by findings of fact and conclusions of law.
- 1606.9 An appeal from the final decision rendered by the Director after a hearing may be filed with the Office of Administrative Hearings in accordance with its rules of procedure.
- 1607. EXCEPTIONS**
- 1607.1 A licensed applicant who holds a valid class C or D license issued pursuant to the District of Columbia Alcoholic Beverage Control Act, D.C. Official Code § 25-101 *et seq.*, shall be exempt from the notice and hearing provisions of this chapter.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “DCRA News” link and then clicking on the “Rulemaking” tab.